

**FISH AND WILDLIFE SERVICE
ADMINISTRATIVE PROCEDURE**

Administrative Procedure

Part 202 The Federal Register

Chapter 4 Clearance Procedures

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4.1 What is the purpose of this chapter? This chapter describes the procedures that program offices should follow once they have finished writing a Federal Register (FR) document.

4.2 What does a program office do with an FR notice when they finish writing it? You must clear your notice and submit it for signature as described below.

A. Routine Notices. Routine notices include documents that announce such information as upcoming public meetings or the availability of certain documents. For example, we may use a routine notice in the FR to announce the receipt of applications to carry out activities that will affect endangered species or marine mammals. (See section 4.2B for information about notices with policy implications.)

(1) Clearance of the draft. You must get any clearances that are necessary within your program area. Required clearances vary by program area. The Division of Policy and Directives Management (PDM) does not determine the clearance process for FR documents within program areas.

(2) Signature. Routine notices are generally signed at the lowest appropriate level in the Service. You may need to consult with managers within your program area to determine who is an appropriate signing official for your document. Some programs allow field office managers to prepare and sign routine FR notices. Other programs require the Assistant Director, Regional Director or California/Nevada Operations Office (CNO) Manager, or Assistant Regional Director/CNO Assistant Manager to sign notices.

(3) After signature.

(a) After the appropriate official signs your notice and the Regional/CNO or Headquarters solicitor has clearly surmamed it, send a copy to PDM. You may fax a copy or e-mail it to the FR liaison in PDM. To ensure PDM gets a copy of the reviewing officials' signatures, you must fax copies or PDF and email copies of those pages showing signatures. Do not send extra copies to PDM by mail or courier. Visit PDM's Web site for the [fax number](#) and [e-mail address](#).

(b) PDM coordinates clearance of your notice with the Director's office and the Department. When the notice clears the Director's office and the Department, PDM will notify you that you can send the document to the Office of the Federal Register (OFR) for publication.

(4) Submission to OFR.

(a) After the Director and the Department approve the notice, put the following items in an envelope:

(i) Three original signed copies of your FR document or one original signed document and two certified copies. To certify copies, the PDM certifying officer ensures that copies of the original documents and any disks submitted for publication are true and accurate copies. The certifying officer hand-writes and signs the following statement at the bottom of the signature page on each copy: "Certified to be a true copy of the original." (It is acceptable for the same person who writes the letter of disk verification to do this.)

(ii) A 3.5" floppy disk or CD-ROM with an electronic file of the document.

(iii) A letter of disk verification. This letter certifies that the disk file matches the three hard copies of the document. The person who signed your FR document can sign this letter. See Exhibit 1 for a template. If you believe that your document needs to publish sooner than the normal 3-day turnaround generally offered by OFR, see Exhibit 2 for a model letter to request expedited publication. Reserve requests for expedited publication for emergency situations.

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(b) We recommend that you send documents to OFR by courier or delivery service and not by regular U.S. mail. To get the correct mailing address and phone number, visit PDM's Contact and Delivery Information Web page.

B. Notices with policy implications. We treat notices that are other than routine notices much like rulemaking documents. For example, a notice that the Federal Assistance program publishes on how they will conduct State audits is a notice that has implications on policy. We treat any notices with policy implications or that establish new programs, such as a grant program, like rules.

(1) Clearance of the draft. For clearance of notices with policy implications, follow the procedures for clearance of rulemaking documents described in section 4.3 of this chapter.

(2) Signature. Either the Director or the Assistant Secretary for Fish and Wildlife and Parks signs notices with policy implications. Consult with PDM about the appropriate signature level for your nonroutine notices.

(3) After signature. The instructions for post-signature clearance of nonroutine notices are the same as those in section 4.2 A(3)(a) of this chapter.

(4) Submission to OFR. The instructions for sending nonroutine notices to the OFR are the same as the instructions for submission of routine notices (see section 4.2A(4)).

4.3 What does a program office do with a rulemaking document when they finish writing it?

A. Content of the rulemaking surname package. Prepare a rulemaking surname package that includes:

(1) The rule or proposed rule.

(2) A copy of the Record of Compliance (ROC) (see 202 FW 2.5).

(3) Other pertinent documents. For example, for a proposed rule that carries out new statutory authority, include a copy of the authorizing legislation. For a final rule, include a copy of the published proposed rule.

(4) A note to reviewers that briefly explains the purpose of the rulemaking action and any required deadlines for publication.

(5) For final rules, three copies of the Submission of Federal Rules Under the Congressional Review Act form (see section 4.3C).

B. The surname process. When the package is complete, start your document through the surname process.

(1) You must get whatever clearances are necessary within your program area. Required clearances vary by program area. PDM does not determine the clearance process for rulemaking documents within program areas.

(2) Once you get the necessary surnames within your program area, you must route the package to any other program areas that should see it. For example, you should allow the Office of Law Enforcement to review any rulemaking actions with law enforcement implications.

(3) After the surname package clears all the affected divisions and offices in the Service, send it to PDM for clearance. PDM reviews the document for compliance with the statutes and Executive Orders that govern the rulemaking process, adherence to the style requirements of the OFR, consistency with other Service documents, internal consistency, and plain language.

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(4) PDM returns the package to the originating program office. You make any required changes and submit the package with the revised draft to your Assistant Director's (AD) office.

(5) Following clearance from your AD, you must clear it with the Solicitor's Office, the Director's Office, and the Office of the Executive Secretariat and Regulatory Affairs (OES).

(6) After receiving all the surnames described above, send the package to the office of the Assistant Secretary for Fish and Wildlife and Parks for signature.

C. Final rulemaking actions. In accordance with the Congressional Review Act (CRA) (5 U.S.C. 801 et seq.), you must submit copies of final rulemaking actions to the Government Accountability Office (GAO) and both houses of Congress at the time of publication. To meet these requirements for final rules, interim rules, direct final rules, and emergency rules, you:

(1) Complete the form for Submission of Federal Rules Under the Congressional Review Act (CRA form), available online on [PDM's Regulations Web page](#).

(2) Make three copies of the CRA form—one addressed to GAO, one addressed to the House of Representatives, and one addressed to the Senate (see section 4.4D below for more information).

(3) Because the person who signs your rule (generally, the Assistant Secretary for Fish and Wildlife and Parks) must also sign all three copies of the CRA form, you should include the three copies of this form in the rulemaking package that you send through the surname process.

4.4 What does the program office do with the rule after the appropriate official signs it? You must get post-signature clearance of your document. Submit a copy of the signed rule—not the rulemaking package—to OES. You may hand-carry a copy of the signed rule to that office, or PDM can submit it for you. OES will submit the document to the Secretary's Chief of Staff for clearance. When the Chief of Staff has cleared the document, further clearance may be necessary as described below.

A. Nonsignificant rules: You may submit rulemaking documents that the Office of Management and Budget (OMB) designates as nonsignificant to OFR for publication following clearance in the Chief of Staff's Office. To submit your document to OFR for publication, follow the instructions in section 4.2A(4). If OMB has requested an informational copy of your rule, then email a copy to OMB when you send the rule to OFR for publication.

B. Rules designated for informal review:

(1) For documents where OMB has requested informal review (see 202 FW 1.6 and 202 FW 2.3C(5)), you may e-mail a copy of the document to [OMB](#) and copy (cc) [PDM](#) on the email. Copy PDM on all subsequent correspondence with OMB during the review period.

(2) OMB generally responds to the Service within 10 days of receiving a document for informal review. OMB may provide input on the rule to PDM or directly to the program office.

(3) Do not send a document designated for OMB's informal review to OFR for publication until you have heard back from OMB on the document.

C. Significant rules: OMB has 90 days to review rulemaking documents designated as significant. To submit a rulemaking document to OMB for formal review:

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(1) Submit an electronic copy to [PDM](#) via e-mail. PDM uploads the document to a database called ROCIS to which OMB has access.

(2) After OMB's review is complete, OMB, OES, or PDM will notify you.

(3) When OMB clears your document, you may send it to OFR for publication. To submit your document to OFR for publication, follow the instructions in section 4.2A(4).

D. Final rules, interim rules, direct final rules, and emergency rules:

(1) As described above in section 4.3C, you must submit copies of final rulemaking actions to GAO and both houses of Congress at the time of publication. When you receive the rulemaking package back from the office of the Assistant Secretary for Fish and Wildlife and Parks, you should have three original signed copies of the Submission of Federal Rules Under the Congressional Review Act form (CRA form).

(2) Make copies of these three CRA forms.

(3) When you deliver the original signed CRA forms and copies of the rule to the House and the Senate, ask someone at each of those locations to sign the copy of the form. These signed copies are your proof that you delivered the rule to the House and the Senate in accordance with the CRA. Your electronic reply from GAO (for details on electronic submission to GAO, see section 4.5), or your fax confirmation, is your proof that you delivered the rule to GAO in accordance with the CRA. You should keep these documents with the administrative record for the rule.

(4) You must make and deliver one copy of the CRA form prepared for and signed by the Senate and House to PDM. PDM faxes the forms to OES for its records.

4.5 How does the program office deliver the rule to the Senate, House, and GAO?

A. Delivery to the Senate: To hand-deliver a copy of the rule and the original signed CRA form to the Vice President's Office in the Senate, you must be a Federal employee with a Federal Government picture ID. Visit PDM's Contact and Delivery Information Web page for delivery information and the current phone number. Make sure to get the photocopy of the CRA form signed for your administrative record.

B. Delivery to the House: To hand-deliver a copy of the rule and the original signed CRA form for the House of Representatives to the U.S. Capitol, you must be a Federal employee with a Federal Government picture ID. Visit PDM's Contact and Delivery Information Web page for delivery information and the current phone number. Make sure to get the photocopy of the CRA form signed for your administrative record.

C. Delivery to GAO: Email the rule and the CRA form to GAO.

(1) Prepare an electronic copy of the [CRA](#) form. Indicate that the Assistant Secretary signed the form by typing "signed by" and the Assistant Secretary's name, title, and date of signature.

(2) Prepare a brief e-mail message explaining that you are transmitting the rule for review under the CRA. If the rule document is more than 10 pages long, include a note that this is a long rulemaking document. GAO made this request so they can save the rule to a disk instead of printing it out.

(3) Send the e-mail message, a copy of the rule, the [CRA](#) form, and any economic analyses to our GAO General Counsel contact. Visit PDM's Contact and Delivery Information Web page for the current e-mail address.

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(4) Archive your e-mail message, as well as the return message you receive from GAO, and print out copies. These files are your proof of delivery to GAO, and you should keep them as part of the rule's administrative record.


DEPUTY
DIRECTOR

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